

## **STANDARDS FOR ORDERING** **PROTECTIVE SERVICES AND PROTECTIVE PLACEMENT**

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### **I. Introduction**

2005 Wisconsin Act 264 amended Chapter 55, the Wisconsin Statute covering protective services and placement of individuals under guardianship. These changes to Ch. 55 became effective November 1, 2006. In addition, 2005 Wisconsin Act 387 also amended Chapter 55. Those changes became effective December 1, 2006.

This publication explains the standards for a court order that an individual under guardianship receive protective services or be protectively placed based on both Acts 264 and 387. All italicized terms are defined by statute and the statutory definitions are provided.

### **II. Definitions - § 55.01**

- A. *“Protective placement”* - a placement that is made to provide for the care and custody of an individual.” Wis. Stat. § 55.01(6)
- B. *“Protective placement facility”* - “a facility to which a court may under s. 55.12 order an individual to be provided protective placement for the primary purpose of residential care and custody.” Wis. Stat. § 55.01(6m)
- C. *“Protective placement unit”* - “a ward, wing, or other designated part of a placement facility.” Wis. Stat. § 55.01(6p)
- D. *“Protective services”* includes any of the following:
  - 1. Outreach
  - 2. Identification of individuals in need of services
  - 3. Counseling and referral for services
  - 4. Coordination of services for individuals



5. Tracking and follow-up
6. Social services
7. Case management
8. Legal counseling or referral
9. Guardianship referral
10. Diagnostic evaluation
11. Any services that, when provided to an individual with developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacity, keep the individual safe from abuse, neglect, or misappropriation of property or prevent the individual from experiencing deterioration or from inflicting harm on himself or herself or another person. § 55.01(6r)

### **III. Voluntary Services - § 55.05**

- A. An individual shall receive protective services voluntarily unless ordered by the court to receive protective services requested by the individual's guardian or agent under an activated Power of Attorney for Health Care, or provided on an emergency basis. § 55.05 (3)

### **IV. Standards For Protective Services - § 55.08 (2)**

- A. The individual has been determined to be incompetent by a circuit court or is a minor who is alleged to be developmentally disabled and on whose behalf a petition for a guardianship has been submitted.
- B. As a result of developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, the individual will incur a substantial risk of physical harm or deterioration or will present a substantial risk of physical harm to others if protective services are not provided.

### **V. Standards For Protective Placement - § 55.08 (1)**

- A. The individual has a primary need for residential care and custody.
- B. The individual is a minor who is not alleged to have a developmental disability and on whose behalf a petition for guardianship has been submitted, or is an adult who has been determined to be incompetent by a circuit court.



- C. As a result of developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, the individual is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to himself or herself or others. Serious harm may be evidenced by overt acts or acts of omission.
- D. The individual has a disability that is permanent or likely to be permanent.

**QUESTIONS? Call the Wisconsin Guardianship Support Center at 1-855-409-9410 or email at [guardian@gwaar.org](mailto:guardian@gwaar.org).**

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